

REFERENCE TITLE: school closings; criteria

State of Arizona
House of Representatives
Forty-seventh Legislature
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HB 2288

Introduced by
Representatives Landrum Taylor, Sinema: Aguirre A, Bradley, Downing,
Senator Rios

AN ACT

AMENDING SECTION 15-341, ARIZONA REVISED STATUTES; RELATING TO SCHOOL
DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 15-341, Arizona Revised Statutes, is amended to
3 read:

4 15-341. General powers and duties; immunity; delegation

5 A. The governing board shall:

6 1. Prescribe and enforce policies and procedures for the governance of
7 the schools, not inconsistent with law or rules prescribed by the state board
8 of education.

9 2. Maintain the schools established by it for the attendance of each
10 pupil for a period of not less than one hundred seventy-five school days or
11 two hundred school days, as applicable, or its equivalent as approved by the
12 superintendent of public instruction for a school district operating on a
13 year-round operation basis, to offer an educational program on the basis of a
14 four day school week or to offer an alternative kindergarten program on the
15 basis of a three day school week, in each school year, and if the funds of
16 the district are sufficient, for a longer period, and as far as practicable
17 with equal rights and privileges.

18 3. Exclude from schools all books, publications, papers or audiovisual
19 materials of a sectarian, partisan or denominational character.

20 4. Manage and control the school property within its district.

21 5. Acquire school furniture, apparatus, equipment, library books and
22 supplies for the use of the schools.

23 6. Prescribe the curricula and criteria for the promotion and
24 graduation of pupils as provided in sections 15-701 and 15-701.01.

25 7. Furnish, repair and insure, at full insurable value, the school
26 property of the district.

27 8. Construct school buildings on approval by a vote of the district
28 electors.

29 9. Make in the name of the district conveyances of property belonging
30 to the district and sold by the board.

31 10. Purchase school sites when authorized by a vote of the district at
32 an election conducted as nearly as practicable in the same manner as the
33 election provided in section 15-481 and held on a date prescribed in section
34 15-491, subsection E, but such authorization shall not necessarily specify
35 the site to be purchased and such authorization shall not be necessary to
36 exchange unimproved property as provided in section 15-342, paragraph 23.

37 11. Construct, improve and furnish buildings used for school purposes
38 when such buildings or premises are leased from the national park service.

39 12. Purchase school sites or construct, improve and furnish school
40 buildings from the proceeds of the sale of school property only on approval
41 by a vote of the district electors.

42 13. Hold pupils to strict account for disorderly conduct on school
43 property.

44 14. Discipline students for disorderly conduct on the way to and from
45 school.

1 15. Except as provided in section 15-1224, deposit all monies received
2 by the district as gifts, grants and devises with the county treasurer who
3 shall credit the deposits as designated in the uniform system of financial
4 records. If not inconsistent with the terms of the gifts, grants and devises
5 given, any balance remaining after expenditures for the intended purpose of
6 the monies have been made shall be used for reduction of school district
7 taxes for the budget year, except that in the case of accommodation schools
8 the county treasurer shall carry the balance forward for use by the county
9 school superintendent for accommodation schools for the budget year.

10 16. Provide that, if a parent or legal guardian chooses not to accept a
11 decision of the teacher as provided in section 15-521, paragraph 3, the
12 parent or legal guardian may request in writing that the governing board
13 review the teacher's decision. Nothing in this paragraph shall be construed
14 to release school districts from any liability relating to a child's
15 promotion or retention.

16 17. Provide for adequate supervision over pupils in instructional and
17 noninstructional activities by certificated or noncertificated personnel.

18 18. Use school monies received from the state and county school
19 apportionment exclusively for payment of salaries of teachers and other
20 employees and contingent expenses of the district.

21 19. Make an annual report to the county school superintendent on or
22 before October 1 each year in the manner and form and on the blanks
23 prescribed by the superintendent of public instruction or county school
24 superintendent. The board shall also make reports directly to the county
25 school superintendent or the superintendent of public instruction whenever
26 required.

27 20. Deposit all monies received by school districts other than student
28 activities monies or monies from auxiliary operations as provided in sections
29 15-1125 and 15-1126 with the county treasurer to the credit of the school
30 district except as provided in paragraph 21 of this subsection and sections
31 15-1223 and 15-1224, and the board shall expend the monies as provided by law
32 for other school funds.

33 21. Establish a bank account in which the board during a month may
34 deposit miscellaneous monies received directly by the district. The board
35 shall remit monies deposited in the bank account at least monthly to the
36 county treasurer for deposit as provided in paragraph 20 of this subsection
37 and in accordance with the uniform system of financial records.

38 22. Employ an attorney admitted to practice in this state whose
39 principal practice is in the area of commercial real estate, or a real estate
40 broker who is licensed by this state and who is employed by a reputable
41 commercial real estate company, to negotiate a lease of five or more years
42 for the school district if the governing board decides to enter into a lease
43 of five or more years as lessor of school buildings or grounds as provided in
44 section 15-342, paragraph 7 or 10. Any lease of five or more years
45 negotiated pursuant to this paragraph shall provide that the lessee is

1 responsible for payment of property taxes pursuant to the requirements of
2 section 42-11104.

3 23. Prescribe and enforce policies and procedures for disciplinary
4 action against a teacher who engages in conduct that is a violation of the
5 policies of the governing board but that is not cause for dismissal of the
6 teacher or for revocation of the certificate of the teacher. Disciplinary
7 action may include suspension without pay for a period of time not to exceed
8 ten school days. Disciplinary action shall not include suspension with pay
9 or suspension without pay for a period of time longer than ten school
10 days. The procedures shall include notice, hearing and appeal provisions for
11 violations that are cause for disciplinary action. The governing board may
12 designate a person or persons to act on behalf of the board on these matters.

13 24. Prescribe and enforce policies and procedures for disciplinary
14 action against an administrator who engages in conduct that is a violation of
15 the policies of the governing board regarding duties of administrators but
16 that is not cause for dismissal of the administrator or for revocation of the
17 certificate of the administrator. Disciplinary action may include suspension
18 without pay for a period of time not to exceed ten school days. Disciplinary
19 action shall not include suspension with pay or suspension without pay for a
20 period of time longer than ten school days. The procedures shall include
21 notice, hearing and appeal provisions for violations that are cause for
22 disciplinary action. The governing board may designate a person or persons
23 to act on behalf of the board on these matters. For violations that are
24 cause for dismissal, the provisions of notice, hearing and appeal in chapter
25 5, article 3 of this title shall apply. The filing of a timely request for a
26 hearing suspends the imposition of a suspension without pay or a dismissal
27 pending completion of the hearing.

28 25. Notwithstanding section 13-3108, prescribe and enforce policies and
29 procedures that prohibit a person from carrying or possessing a weapon on
30 school grounds unless the person is a peace officer or has obtained specific
31 authorization from the school administrator.

32 26. Prescribe and enforce policies and procedures relating to the
33 health and safety of all pupils participating in district sponsored practice
34 sessions, games or other interscholastic athletic activities, including the
35 provision of water.

36 27. Prescribe and enforce policies and procedures regarding the smoking
37 of tobacco within school buildings. The policies and procedures shall be
38 adopted in consultation with school district personnel and members of the
39 community and shall state whether smoking is prohibited in school
40 buildings. If smoking in school buildings is not prohibited, the policies
41 and procedures shall clearly state the conditions and circumstances under
42 which smoking is permitted, those areas in a school building that may be
43 designated as smoking areas and those areas in a school building that may not
44 be designated as smoking areas.

1 28. Establish an assessment, data gathering and reporting system as
2 prescribed in chapter 7, article 3 of this title.

3 29. Provide special education programs and related services pursuant to
4 section 15-764, subsection A to all children with disabilities as defined in
5 section 15-761.

6 30. Administer competency tests prescribed by the state board of
7 education for the graduation of pupils from high school.

8 31. Secure insurance coverage for all construction projects for
9 purposes of general liability, property damage and workers' compensation and
10 secure performance and payment bonds for all construction projects.

11 32. Keep on file the resumes of all current and former employees who
12 provide instruction to pupils at a school. Resumes shall include an
13 individual's educational and teaching background and experience in a
14 particular academic content subject area. A school district shall inform
15 parents and guardians of the availability of the resume information and shall
16 make the resume information available for inspection on request of parents
17 and guardians of pupils enrolled at a school. Nothing in this paragraph
18 shall be construed to require any school to release personally identifiable
19 information in relation to any teacher or employee, including the teacher's
20 or employee's address, salary, social security number or telephone number.

21 33. Report to local law enforcement agencies any suspected crime
22 against a person or property that is a serious offense as defined in section
23 13-604 or that involves a deadly weapon or dangerous instrument or serious
24 physical injury and any conduct that poses a threat of death or serious
25 physical injury to employees, students or anyone on the property of the
26 school. This paragraph does not limit or preclude the reporting by a school
27 district or an employee of a school district of suspected crimes other than
28 those required to be reported by this paragraph. For the purposes of this
29 paragraph, "dangerous instrument", "deadly weapon" and "serious physical
30 injury" have the same meaning prescribed in section 13-105.

31 34. In conjunction with local law enforcement agencies and local
32 medical facilities, develop an emergency response plan for each school in the
33 school district in accordance with minimum standards developed jointly by the
34 department of education and the division of emergency management within the
35 department of emergency and military affairs.

36 35. Annually assign at least one school district employee to
37 participate in a multihazard crisis training program developed or selected by
38 the governing board.

39 36. **EXCEPT AS PROVIDED IN SUBDIVISION (c) OF THIS PARAGRAPH,** provide
40 written notice to the parents or guardians of all students affected in the
41 school district at least thirty days prior to a public meeting to discuss
42 closing a school within the school district. The notice shall include the
43 reasons for the proposed closure and the time and place of the meeting. The
44 governing board shall fix a time for a public meeting on the proposed closure
45 no less than thirty days before voting in a public meeting to close the

1 school. The school district governing board shall give notice of the time
 2 and place of the meeting. At the time and place designated in the notice,
 3 the school district governing board shall STATE THE REASONS FOR THE PROPOSED
 4 CLOSURE AND hear reasons for or against closing the school. ~~The school~~
 5 ~~district governing board is exempt from this paragraph if it is determined by~~
 6 ~~the governing board that the school shall be closed because it poses a danger~~
 7 ~~to the health or safety of the pupils or employees of the school.~~ A SCHOOL
 8 DISTRICT GOVERNING BOARD MAY NOT CLOSE AN EXISTING SCHOOL UNLESS THE SCHOOL
 9 MEETS AT LEAST ONE OF THE FOLLOWING CRITERIA:

10 (a) THE SCHOOL'S STUDENT ENROLLMENT HAS DECLINED BY AT LEAST
 11 TWENTY-FIVE PER CENT FOR AT LEAST TWO CONSECUTIVE YEARS. NOTHING IN THIS
 12 SUBDIVISION SHALL BE CONSTRUED TO REQUIRE A SCHOOL DISTRICT GOVERNING BOARD
 13 TO CLOSE A SCHOOL THAT MEETS THE CRITERIA PRESCRIBED IN THIS SUBDIVISION.

14 (b) THE SCHOOL HAS BEEN CLASSIFIED AS A SCHOOL FAILING TO MEET
 15 ACADEMIC STANDARDS PURSUANT TO SECTION 15-241. NOTHING IN THIS SUBDIVISION
 16 SHALL BE CONSTRUED TO REQUIRE A SCHOOL DISTRICT GOVERNING BOARD TO CLOSE A
 17 SCHOOL THAT MEETS THE CRITERIA PRESCRIBED IN THIS SUBDIVISION.

18 (c) THE GOVERNING BOARD DETERMINES THAT THE SCHOOL NEEDS TO BE CLOSED
 19 BECAUSE IT POSES A DANGER TO THE HEALTH OR SAFETY OF THE PUPILS OR EMPLOYEES
 20 OF THE SCHOOL. A PUBLIC MEETING IS NOT REQUIRED TO CLOSE A SCHOOL THAT MEETS
 21 THE CRITERIA PRESCRIBED IN THIS SUBDIVISION.

22 37. Incorporate instruction on Native American history into appropriate
 23 existing curricula.

24 38. Prescribe and enforce policies and procedures allowing pupils who
 25 have been diagnosed with anaphylaxis by a health care provider licensed
 26 pursuant to title 32, chapter 13, 14, 17 or 25 or by a registered nurse
 27 practitioner licensed and certified pursuant to title 32, chapter 15 to carry
 28 and self-administer emergency medications including auto-injectable
 29 epinephrine while at school and at school sponsored activities. The pupil's
 30 name on the prescription label on the medication container or on the
 31 medication device and annual written documentation from the pupil's parent or
 32 guardian to the school that authorizes possession and self-administration is
 33 sufficient proof that the pupil is entitled to the possession and
 34 self-administration of the medication. The policies shall require a pupil
 35 who uses auto-injectable epinephrine while at school and at school sponsored
 36 activities to notify the nurse or the designated school staff person of the
 37 use of the medication as soon as practicable. A school district and its
 38 employees are immune from civil liability with respect to all decisions made
 39 and actions taken that are based on good faith implementation of the
 40 requirements of this paragraph, except in cases of wanton or wilful neglect.

41 39. Allow the possession and self-administration of prescription
 42 medication for breathing disorders in handheld inhaler devices, by pupils who
 43 have been prescribed that medication by a health care professional licensed
 44 pursuant to title 32. The pupil's name on the prescription label on the
 45 medication container or on the handheld inhaler device and annual written

1 documentation from the pupil's parent or guardian to the school that
2 authorizes possession and self-administration shall be sufficient proof that
3 the pupil is entitled to the possession and self-administration of the
4 medication. A school district and its employees are immune from civil
5 liability with respect to all decisions made and actions taken that are based
6 on a good faith implementation of the requirements of this paragraph.

7 40. Prescribe and enforce policies and procedures to prohibit pupils
8 from harassing, intimidating and bullying other pupils on school grounds, on
9 school property, on school buses, at school bus stops and at school sponsored
10 events and activities that include the following components:

11 (a) A procedure for pupils to confidentially report to school
12 officials incidents of harassment, intimidation or bullying.

13 (b) A procedure for parents and guardians of pupils to submit written
14 reports to school officials of suspected incidents of harassment,
15 intimidation or bullying.

16 (c) A requirement that school district employees report suspected
17 incidents of harassment, intimidation or bullying to the appropriate school
18 official.

19 (d) A formal process for the documentation of reported incidents of
20 harassment, intimidation or bullying, except that no documentation shall be
21 maintained unless the harassment, intimidation or bullying has been proven.

22 (e) A formal process for the investigation by the appropriate school
23 officials of suspected incidents of harassment, intimidation or bullying.

24 (f) Disciplinary procedures for pupils who have admitted or been found
25 to have committed incidents of harassment, intimidation or bullying.

26 (g) A procedure that sets forth consequences for submitting false
27 reports of incidents of harassment, intimidation or bullying.

28 B. Notwithstanding subsection A, paragraphs 8, 10 and 12 of this
29 section, the county school superintendent may construct, improve and furnish
30 school buildings or purchase or sell school sites in the conduct of an
31 accommodation school.

32 C. If any school district acquires real or personal property, whether
33 by purchase, exchange, condemnation, gift or otherwise, the governing board
34 shall pay to the county treasurer any taxes on the property that were unpaid
35 as of the date of acquisition, including penalties and interest. The lien
36 for unpaid delinquent taxes, penalties and interest on property acquired by a
37 school district:

38 1. Is not abated, extinguished, discharged or merged in the title to
39 the property.

40 2. Is enforceable in the same manner as other delinquent tax liens.

41 D. The governing board may not locate a school on property that is
42 less than one-fourth mile from agricultural land regulated pursuant to
43 section 3-365, except that the owner of the agricultural land may agree to
44 comply with the buffer zone requirements of section 3-365. If the owner
45 agrees in writing to comply with the buffer zone requirements and records the

1 agreement in the office of the county recorder as a restrictive covenant
2 running with the title to the land, the school district may locate a school
3 within the affected buffer zone. The agreement may include any stipulations
4 regarding the school, including conditions for future expansion of the school
5 and changes in the operational status of the school that will result in a
6 breach of the agreement.

7 E. A school district, its governing board members, its school council
8 members and its employees are immune from civil liability for the
9 consequences of adoption and implementation of policies and procedures
10 pursuant to subsection A of this section and section 15-342. This waiver
11 does not apply if the school district, its governing board members, its
12 school council members or its employees are guilty of gross negligence or
13 intentional misconduct.

14 F. A governing board may delegate in writing to a superintendent,
15 principal or head teacher the authority to prescribe procedures that are
16 consistent with the governing board's policies.

17 G. Notwithstanding any other provision of this title, a school
18 district governing board shall not take any action that would result in an
19 immediate reduction or a reduction within three years of pupil square footage
20 that would cause the school district to fall below the minimum adequate gross
21 square footage requirements prescribed in section 15-2011, subsection C,
22 unless the governing board notifies the school facilities board established
23 by section 15-2001 of the proposed action and receives written approval from
24 the school facilities board to take the action. A reduction includes an
25 increase in administrative space that results in a reduction of pupil square
26 footage or sale of school sites or buildings, or both. A reduction includes
27 a reconfiguration of grades that results in a reduction of pupil square
28 footage of any grade level. This subsection does not apply to temporary
29 reconfiguration of grades to accommodate new school construction if the
30 temporary reconfiguration does not exceed one year. The sale of equipment
31 that results in an immediate reduction or a reduction within three years that
32 falls below the equipment requirements prescribed in section 15-2011,
33 subsection B is subject to commensurate withholding of school district
34 capital outlay revenue limit monies pursuant to the direction of the school
35 facilities board. Except as provided in section 15-342, paragraph 10,
36 proceeds from the sale of school sites, buildings or other equipment shall be
37 deposited in the school plant fund as provided in section 15-1102.

38 H. Subsections C through G of this section apply to a county board of
39 supervisors and a county school superintendent when operating and
40 administering an accommodation school.

1 I. Until the state board of education and the auditor general adopt
2 rules pursuant to section 15-213, subsection ~~+~~ I, a school district may
3 procure construction services, including services for new school construction
4 pursuant to section 15-2041, by the construction-manager-at-risk,
5 design-build and job-order-contracting methods of project delivery as
6 provided in title 41, chapter 23, except that the rules adopted by the
7 director of the department of administration do not apply to procurements
8 pursuant to this subsection. Any procurement commenced pursuant to this
9 subsection may be completed pursuant to this subsection.